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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/675,070	09/30/2003	Frank Molock	VTN 5013	5103

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EXAMINER
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SASTRI, SATYA B

ART UNIT	PAPER NUMBER
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1713

DATE MAILED: 03/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/675,070

Applicant(s)

MOLOCK, FRANK

Examiner

Satya B. Sastri

Art Unit

1713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. This office action is in response to amendment filed on January 30, 2006. With the addition of new *claims 17, 18, claims 1-18* are now pending in the application.
2. Applicant's amendment and arguments have been fully considered but not found persuasive and thus, rejection of *claims 1, 5-10, 12-15* under 35 U.S.C. 102(b) as anticipated by Vanderlann et al. (WO 02/062402 A1), rejection of *claims 1, 5-10, 12-14* under 35 U.S.C. 102(e) as anticipated by Marmo (US2004/0214914 A1), rejection of *claims 2-4, 16* under 35 U.S.C. 103(a) as being unpatentable over either Vanderlann et al. (WO 02/062402 A1) or Marmo (US2004/0214914 A1) in view of Wichterle (US 4,534,916 A) and rejection of *claim 11* under 35 U.S.C. 103(a) as being unpatentable over either Vanderlann et al. (WO 02/062402 A1) or Marmo (US2004/0214914 A1) in view of Kunzler et al. (US 5,006,622) are all sustained. Furthermore, new grounds of rejection are necessitated by the amendment and therefore, this action is made final.

### *Claim Rejections - 35 USC § 112*

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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4. **Claims 1-18** are indefinite because the amended claims include the limitation “curing of the reactive monomer mix at a temperature below the Tg of the uncured components” in the claim language. Glass transition temperature is typically associated with polymeric materials and it is unclear as what the recited limitation implies.

***Previously Cited Statutes***

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. **Claim 17** is rejected under 35 U.S.C. 103(a) as being unpatentable over either Vanderlann et al. (WO 02/062402 A1) or Marmo (US2004/0214914 A1) in view of Adams et al. (US 5,435,943).

With respect to **claim 1**, the rejection is set forth in paragraphs 4 and 5 of action dated September 1, 2005 and is incorporated here by reference.

The difference between the prior art and the instant invention is that the prior art does not teach degassing the uncured components.

Secondary reference to Adams et al. is in an analogous field of making ophthalmic lens. The prior art discloses the step of degassing the monomer mixture to eliminate dissolved oxygen that interferes with the polymerization reaction in production of molded contact lenses using a diluent (column 1, lines 54-59). Thus, it would have been obvious to one of ordinary skill

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in the art at the time the invention was made to degas the polymerization mixture of Vanderlann or Marmo et al. and thereby obtain the instant invention.

7. **Claim 18** is rejected under 35 U.S.C. 103(a) as being unpatentable over either Vanderlann et al. (WO 02/062402 A1) or Marmo (US2004/0214914 A1) in view of Wichterle (US 4,534,916 A) and Adams et al. (US 5,435,943).

With respect to **claim 16**, the rejection is set forth in paragraph 6 of action dated September 1, 2005 and is incorporated here by reference.

The difference between the prior art and the instant invention is that the prior art does not teach degassing the uncured components.

Secondary reference to Adams et al. is in an analogous field of making ophthalmic lens. The prior art discloses the step of degassing the monomer mixture to eliminate dissolved oxygen that interferes with the polymerization reaction in production of molded contact lenses using a diluent (column 1, lines 54-59). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to degas the polymerization mixture of Vanderlann or Marmo et al. and thereby obtain the instant invention.

### ***Response to Arguments***

8. Applicants' amendment introduces new limitation in the method claims and the scope of the currently amended claims is unclear. The rejections are sustained because the instantly claimed method reads on prior art of record. With regard to the new limitation, it is noted that the

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glass transition is a transition temperature associated with polymeric materials. It is interpreted in terms of molecular behavior as the temperature above which the polymer has acquired sufficient thermal energy for isomeric rotational motion, or significant torsional oscillation to occur about most of the bonds in the main chain which are capable of such motion in the undegraded molecule (Lee et al., "The Glass Transition Temperatures of Polymers", Polymer Handbook, 2<sup>nd</sup> ed., Brandrup et al. ed., John Wiley & Sons, New York, pp 140 (1975)).

Furthermore, the reference to Vanderlaan et al. teaches polymerization using UV light while that of Marmo et al. teach curing the monomer mixture using free radicals at elevated temperatures or photoinitiators under ambient reaction conditions. The rejections are maintained because the instant inventive example teaches heating the monomer vials to 55-60°C and prior art photopolymerization reactions do not teach or suggest elevated cure temperatures.

***Action Is Final***

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

***Future Correspondence***

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Satya Sastri whose telephone number is 571-272-1112.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu can be reached on 571-272-1114. The fax phone numbers for the organization where this application or proceeding is assigned is (571) 273-8300 for regular communications. The unofficial direct fax phone number to the Examiner's desk is 571-273-1112.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



March 6, 2006

SATYA SASTRI



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